

**TITLE:** Dispute Resolution - Executive  
**PROJECT:** Construction Package No. 1

**DATE:** 8/31/2018  
**CONTRACT NO:** HSR 13-06

**CONTRACTOR:** Attn: Ghassan Ariqat  
 Tutor Perini/Zachry/Parsons, a Joint Venture  
 1401 Fulton Street  
 Suite 400  
 Fresno, CA 93721

**DESCRIPTION OF CHANGE:**

The Authority and Contractor have agreed, in order to streamline the dispute resolution process and make it more efficient, to modify General Provision 51.1 Authority Decision as follows.

GP 51.1 shall be modified to read:

**51.1 Authority Decision**

Before the Contractor may submit any matter to dispute resolution board hereunder, it must first go through the Issue Resolution Ladder in accordance with the following procedures.

If the Contractor objects to any recommendation, action, order, or position of the Authority (including any rejection or modification of a proposed Change Order by the Authority), as a condition precedent to referral of a dispute, the Contractor shall first seek to resolve the dispute through the partnering process, including escalation of the dispute through all levels of the Issue Resolution Ladder. The Issue Resolution Ladder shall be:

CP 1		
IRL	Authority	TPZP
1	Project Director / Design Construction Manager	Project Director / Deputy Project Manager
2	Director of Infrastructure Delivery / Director of Design and Construction	Company Vice President
3	Executives	Executives

The Contractor initiates the IRL by submitting a written notice of dispute ("NOD") to the Authority. Unless the Parties otherwise agree in writing, Level 1 of the IRL must be completed within 14 days of the TPZP's submission of a NOD. Otherwise, Level 1 will be deemed completed and the dispute will automatically proceed to Level 2 of the IRL. Unless the Parties otherwise agree in writing, Level 2 of the IRL must be completed within 14 days. Otherwise, Level 2 will be deemed completed. The Contractor may advance the dispute to Level 3 of the IRL by submitting to the Authority, within 14 days after the actual or deemed completion of Level 2, a written request for Level 3 review. The request shall state clearly, and in detail, the basis for the request, a statement of the facts asserted, the nature and amount of the costs involved, the Contractor's plan for mitigating such costs, and its best estimate as analyzed in accordance with Cost and Scheduling Controls Program section 9, of the schedule impact of the matters that give rise to the potential dispute. Unless the Parties otherwise agree in writing, Level 3 must be completed within 14 days after the Contractor's submission of its request for Level 3 review. Otherwise, Level 3 will be deemed completed.

For purposes of the IRL step 3, an "Executive" shall be defined as: (1) the Authority's Chief Operating Officer or Deputy Chief Operating Officer, and (2) the following individual employed by Contractor: Ronald Tutor. Step 3 shall take place at the Authority's 1111 H Street board room in Fresno or as otherwise agreed to in writing by and between the parties. Following the step 3 proceeding, the Authority shall issue a written decision (approved by counsel as in accordance with applicable law) and such decision shall be final and conclusive (hereinafter "Final Decision"). If the Authority fails to issue a Final Decision within seven (7) calendar days of the step 3 proceeding, the Authority's Final Decision shall be deemed a denial of the Contractor's written objection and such Final Decision shall be deemed received by the Contractor at the end of such 7-day period.

Contractor		California High-Speed Rail Authority	
Acceptance by	Submitted by	Recommended by	Approved by
			

## DESCRIPTION OF CHANGE: (Cont.)

If the dispute is not resolved by the IRL, either Party may refer the dispute to the DRB; provided, however, that the Contractor must refer the dispute to the DRB within 28 days from the date of the Dispute Review – Executive. Pending the final resolution of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Contract and in accordance with the Authority's decision. If it is determined, on appeal, that the Authority's interpretation of the Contract, direction to the Contractor, or any other action required by the Authority's decision was an erroneous determination of the rights and obligations of the Parties under the Contract, the Contractor's sole remedy shall be the same as if such action were a "Change" pursuant to Section 17.0 of these General Provisions.

In the event the Contractor fails to file a written request for the Dispute Review – Executive within the time periods specified herein, or if the Contractor fails to refer the dispute to the DRB within the specified time period, the Contractor shall be deemed to have waived any and all rights it may have to object to or to seek DRB review of such decision, action, or order. This waiver shall occur whether or not there is any showing of prejudice to the Authority resulting from the delay in filing the objection.

As a condition to Final Acceptance, the Contractor shall identify all outstanding matters relating to this Contract that have been elevated to the dispute resolution process. By provision of the list of outstanding matters, or by its failure to provide such a list, the Contractor shall be deemed to have waived any and all rights it may have to make any claim against the Authority with respect to this Contract except with respect to the listed matters, provided that such waiver shall not extend to any matters arising after Final Acceptance with respect to obligations of the Parties under the Contract after Final Acceptance.

### ADJUSTMENT IN COMPENSATION:





There is no adjustment in compensation under this Change Order.

### TIME ADJUSTMENT:

There is no time adjustment due to this Change Order.

PCO	Payment Item	Description	Quantity	Unit	Unit Price	Net Amount	Time Adj. Days
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Total: \$0.00 0

Contractor	California High-Speed Rail Authority		
Acceptance by	Submitted by	Recommended by	Approved by
		 	

Except as modified by this Change Order, all terms and conditions of the Contract, as previously modified, remain unchanged and in full force and effect. The parties agree that this Change Order is a final and equitable adjustment of the Contract time and Contract amount and constitutes a mutual accord and satisfaction of all claims, current or future, of whatever nature caused by or arising out of the facts and circumstances surrounding this Change Order including, but not limited to, direct, indirect and consequential costs; additional time for performance; and the impact of the modifications specified in this Change Order, alone or taken with other changes, on the unchanged Work.

### Contractor's Sworn Certification

By executing this Change Order for the Contractor below, the undersigned for the Contractor certifies as true, under penalty of perjury (under the laws of California, executed in Fresno, California), as follows:

This Change Order is made in good faith and in accordance with the terms of the Contract.

The amount of time and/or compensation requested accurately reflects the appropriate adjustments and includes all known and anticipated impacts or amounts that may be incurred as a result of the event or matter giving rise to such proposed change.

The Contractor has no reason to believe and does not believe that the factual basis for this Change Order is falsely represented.

The Contractor has investigated the basis for each Subcontractor claim and has determined that each such claim is justified as to entitlement and amount of money and/or time requested and has no reason to believe and does not believe that the factual basis for the Subcontractor's claim is falsely represented.

### Subcontractor's Sworn Certification(s):

Attached as \_\_\_\_\_ [indicate "none" if no such Subcontractors are involved] are sworn certifications from each Subcontractor involved in the Work or event contemplated by this Change Order in the form above.

### Tutor Perini/Zachry/Parsons, a Joint Venture

Acceptance by		
Signature		Date
	Ghassan Ariqat – Project Manager/Director	9/6/18

### California High-Speed Rail Authority

Submitted by		
Signature		Date
	Mike Sheffield - D-B Oversight Manager	9/7/18

Recommended by		
Signature		Date
	Steven Milton- Design & Construction Manager	9/10/18

Approval by		
Signature		Date
	Terry Ogle- Director of Design & Construction	9/11/18